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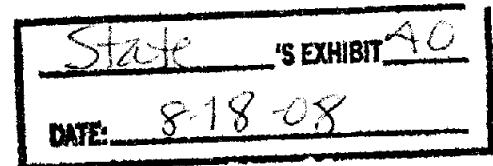
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August 15, 2008

VIA OVERNIGHT DELIVERY

Tracy Taylor, P.E., State Engineer
Attn: Susan Joseph-Taylor, Chief Hearing Officer
Nevada Division of Water Resources
901 Stewart Street, Suite 2002
Carson City, Nevada 89701



RE: SNWA's request for administrative notice;
Applications 54022 through 54030, inclusive

Dear Mr. Taylor:

This letter is submitted on behalf of the Baker Water & Sewer General Improvement District ("BGID") to urge you to decline the Southern Nevada Water Authority's ("SNWA") request to take administrative notice in the upcoming Snake Valley applications hearing of certain statutory criteria and protest issues addressed in the findings of facts in Intermediate Order No. 1 in the Delamar, Dry Lake and Cave Valley hearings (collectively, hereinafter the "Cave Valley hearings").

Specifically, we request that you decline to take administrative notice of the following two findings of fact:

1. The population projections used by SNWA were not unrealistic.
2. SNWA has demonstrated a need for the water and has justified the need to import water from another hydrographic basin, and that evidence demonstrates that the amount contemplated in the application is necessary and reasonable.

The latest data shows that the population growth rate of Southern Nevada has decreased dramatically. We believe that although you may have been justified in finding that SNWA's population projections were realistic when they were submitted in the Spring Valley hearings, the recent precipitous drop in growth in Southern Nevada renders those past projections irrelevant and unreliable. Therefore, we urge you not to take administrative notice of those past population growth projections and the consequent need for the water that was based upon those outdated and erroneous projections.

The past population growth projections were wrong.

At the time the Spring Valley hearings were being held in September 2006, the Las Vegas Valley was the fastest growing metropolitan area in the nation and it was experiencing unprecedented growth. Between 2003 and 2006, Clark County consistently experienced a population growth rate of approximately 5% per year.¹ In 2006, the State Demographer predicted that Clark County would experience 5.3% and 4.7% growth in 2006 and 2007, respectively.² During the Spring Valley hearings, the Chairman of the Clark County Commissioner testified that he expected the growth rate to continue for sometime to come.³ Based on the data available at the time, it was not unreasonable to expect that the growth rate would continue into the future.

However, the predictions turned out to be wrong. Today, the Las Vegas Valley is no longer the fastest growing metropolitan area in the nation.⁴ For the first three months of 2008, Nevada's gaming revenue has declined 3.4 percent.⁵ The sale of existing homes in the region has plummeted significantly and many high-rise residential and mega resort casino construction projects which were the principal drivers for population growth have been cancelled or put on hold. According to the Clark County Demographer, the valley's growth rate decreased by almost 50% between July 2006 and July 2007, as the county's population grew only 2.7%.⁶ The decreasing trend in growth seems to be continuing. The latest data from Nevada Department of Motor Vehicles shows a 16.4% decrease in the number of new residents in Clark County seeking Nevada Driver's Licenses in the first three months of 2008, compared to the same period during 2007.⁷

¹ Nevada County Population Estimates July 1, 1986 to July 1, 2007 prepared by the Nevada State Demographer's Office, July 2006.

² Nevada County Population Projections 2006 to 2007, prepared by the Nevada State Demographer's Office, July 2006.

³ Transcript of the September 11-25, 2006 public administrative hearing before the State Engineer, pp 131, 135.

⁴ U.S. Census Bureau's report released on March 27, 2008. (The Las Vegas Valley is now the 10th fastest growing metropolitan area in the nation).

⁵ *Economic woes hurt U.S. casinos.* Las Vegas Review Journal Editorial, May 15, 2008.

⁶ *Is Growth Finally Slowing Down?* Las Vegas Review Journal Editorial, October 23, 2007.

⁷ Clark County Economic Indicators, prepared by the Center for Business & Economic Research, University of Nevada, Las Vegas, June 2008.

While one could debate whether the recent drop in growth is a bellwether for slower population growth over the long term, it clearly points out that the past predictions SNWA urges you to take administrative notice of were wrong and should not be relied upon in the Snake Valley hearing.

Additionally, we believe that requiring a new population growth projection and re-establishing the need for the water from the Snake Valley Basin is in harmony with NRS 533.368(1), which imposes a duty on the State Engineer to assess the need for a study in connection with a specific transfer application. The Snake Valley Basin is in a different and separate geographical location from the basins previously addressed in the Spring Valley hearings and the Dry Lake, Delmar, and Cave Valley hearings. Therefore, the Snake Valley basin applications require the State Engineer to take a new look at all of the statutory criteria, including whether SNWA has demonstrated a current need for the applied-for water appropriations.

The Need for the Water from the Snake Valley Basin Needs to be Established.

Because SNWA relied on an over-inflated growth rate (which time has proven wrong) to demonstrate the need for water, that statutory criteria should be re-examined. NRS 533.340 requires SNWA to establish the approximate number of people to be served in seeking permits to transfer the water out of the Snake Valley Basin since the water is to be used for domestic purposes in Southern Nevada. Undoubtedly, the dramatic decrease in the area's growth will reduce the area's demand for water. In addition, SNWA has already successfully acquired a substantial amount of water from rural basins in previous applications. Together, the unexpected drop in growth and the additional water SNWA already acquired may completely eliminate or greatly reduce the need for an additional 50,680 afa of water from the Snake Valley Basin. In light of these facts, we urge you deny SNWA's request for administrative notice of the past finding and allow the admission of evidence and testimony in the Snake Valley hearing regarding SNWA's need to transfer water from the Snake Valley Basin to Clark County.

Finally, we are cognizant of the fact that technical rules of evidence do not apply to water application hearings and that your office enjoys wide discretion in conducting the hearings. We also understand your position in wanting to advance administrative efficiency by not repeating or replicating already determined conclusive findings of fact. However, BGID was not a participant in the previous SNWA hearings and should have the opportunity to demonstrate how and to what extent the previous findings are no longer correct. To that end, we have limited our opposition to the two findings of fact that are no longer reliable and conclusive.

With the unexpected slowdown in growth, the public agencies in Southern Nevada have an opportunity to reassess their projections for future water needs.⁸ We believe that all those involved in the Snake Valley hearings could benefit from such an endeavor. For the reasons

⁸*Is Growth Finally Slowing Down?* Las Vegas Review Journal Editorial, October 23, 2007, (commenting that the Southern Nevada School District should "re-examine whether the size of the new-school construction bond that it will put before voters next year remains appropriate.")

Tracy Taylor, P.E.
Attn: Susan Joseph-Taylor, Chief Hearing Officer
August 15, 2008
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discussed, we strongly urge you to deny SNWA's request to take administrative notice of the two findings of facts set forth above.

Sincerely Yours,

SANTORO, DRIGGS, WALCH,
KEARNEY, HOLLEY & THOMPSON


Howard C. Kim, Esq.

HCK:hck

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